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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 DURRELL ANTHONY PUCKETT,

12 Plaintiff,

13 v.

14 HEATH, et al.,

15 Defendants.  
16  
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No. 2:22-cv-0476-DJC-CKD P

ORDER

18 Plaintiff is a state prisoner proceeding without an attorney in this civil rights action filed  
19 pursuant to 42 U.S.C. § 1983. On May 19, 2025, defendants filed and served a motion to dismiss  
20 under 28 U.S.C. § 1915(e)(2)(A) asserting plaintiff made a false declaration of poverty in his  
21 application for in forma pauperis status. (ECF No. 87.) Defendants subsequently re-served the  
22 motion to plaintiff at an updated address of record pursuant to the court's order. (ECF No. 90.)  
23 Plaintiff did not oppose the motion. Accordingly, in findings and recommendations filed on  
24 October 22, 2025, the undersigned recommended this case be dismissed. (ECF No. 92.) Plaintiff  
25 filed objections to the findings and recommendations indicating, among other matters, that he was  
26 without his legal property on various dates due to prison transfers and requesting another copy of  
27 the motion and time to file a response. (ECF No. 93.) Good cause appearing, the request will be  
28 granted.

1 In addition, on May 12, 2025, plaintiff filed a request for an incarcerated witness to testify  
2 in this case. (ECF No. 86.) In light of the procedural posture of this case and pending motion to  
3 dismiss, the request for an incarcerated witness to testify is premature and will be denied.

4 Good cause appearing, IT IS ORDERED as follows:

- 5 1. The findings and recommendations filed on October 22, 2025 (ECF No. 92) are  
6 VACATED.
- 7 2. Within 5 days of the date of this order, defendants shall re-serve another copy of the  
8 motion to dismiss filed on May 19, 2025, to plaintiff at his address of record and shall  
9 file proof of re-service of the motion.
- 10 3. Within 30 days from the date of this order, plaintiff shall file an opposition, if any, to  
11 the motion to dismiss. Defendants may file a reply within 14 days of any opposition  
12 filed by plaintiff. Plaintiff is cautioned that failure to file an opposition will be deemed  
13 as consent to have the action dismissed and will result in a recommendation that this  
14 case be dismissed pursuant to Federal Rule of Civil Procedure 41(b). In addition, no  
15 further extensions of time will be granted for this purpose absent good cause shown  
16 for extraordinary circumstances outside of plaintiff's control.
- 17 4. Plaintiff's request for an incarcerated witness to testify (ECF No. 86) is DENIED  
18 without prejudice as premature.

19 Dated: November 18, 2025

  
CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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